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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,818	02/22/2002	Thomas Dean Gulley	46893/DRK/S1050	9926

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EXAMINER

KYLE, MICHAEL J

ART UNIT PAPER NUMBER

3677

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/080,818

Applicant(s)

GULLEY, THOMAS DEAN

Examiner

Michael J. Kyle

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/20/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-12,14-17,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-12,14-17,19,20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5, 8, 9, 12, 14, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (APA) in view of Flamme (U.S. Patent No. 5,561,886) in view of Kent et al (U.S. Patent No. 5,774,938). APA discloses a barrel hinge comprising a cylindrical female barrel portion (4b, see applicant's figures 1 and 2) having a cylindrical, an axial bore extending from end to end, and first and second male barrel portions (4a, 4c) having cylindrical main bodies. APA also discloses the female barrel portion to comprise seamless cylindrical tubing. Furthermore, APA discloses the male and female barrel portions are adapted to be welded to objects (see applicant's figure 2). APA does not disclose the male barrel portions to have a pin extension or for the female barrel portion to include an aperture for a lubricant fitting.
3. Flamme discloses a cylindrical female portion (20) and first and second cylindrical male barrel portions (11, 12). The female barrel portion has a sidewall (21), outside surface, axial bore, and interior wall surface while the male barrel portions have a main body portion (25), outer surface, unitary pin extensions (13), and pin ends (13) substantially as claimed. The two male portions are identical and are rotatably received in the female portion. Flamme uses this arrangement to provide for easy assembly and mounting of a door on a body via the hinge

Art Unit: 3677

column 2, lines 19-32). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify APA as taught by Flamme, in order to provide a hinge that allows for easy mounting and assembly of a door on body, via the hinge. The combination would result in the pin (6) of APA being replaced with the pair of pins (13 and 14) of Flamme. Examiner notes that because pin extension 13 and 14 function with the male barrel portions as a single unit, the pin extensions are considered to be unitary with the barrel portions.

4. Kent et al teaches a female portion (10) with an aperture for a lubricant fitting (58) for the purpose of providing the interior spaces of the cylindrical portions of the hinge with grease. Grease protects various assemblies from outside contaminants. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a lubricant fitting into an aperture within Flamme's female member in order for the hinge to retain lubrication, which protects the assembly from outside contaminants (col. 11, line 57 – col. 12, line 3).

5. With respect to claim 8, APA shows the first and second male portions to be identical.

6. With respect to claim 19, APA and that the male and female portions are adapted for welding to objects without additional attachment features.

7. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Flamme and Kent et al as applied to claim 1 above, and further in view of Huppert, Sr. (U.S. Patent No. 5,771,538). The combination of APA, Flamme, and Kent fails to disclose the lubricant fitting as threadably engageable with the female barrel portion.

8. Huppert teaches a lubricant fitting (16) which is threadably engaged (col. 2, lines 7-8) with the barrel portion (14). It would have been obvious to one having ordinary skill in the art at

Art Unit: 3677

the time the invention was made to fasten the lubricant fitting with threads to the female barrel portion so that one can readily remove a grease removing instrument without the lubricant fitting falling off (col. 2, lines 13-14).

9. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Flamme and Kent et al as applied to claim 1 above, and further in view of Dodge (U.S. Patent No. 132,147). The combination of APA, Flamme, and Kent et al fails to disclose bevels as claimed by applicant.

10. Dodge teaches the ends of a female barrel portion as beveled (c) and the main portions of the male portions as also beveled (at 1, see figure 2) to form a groove in interface regions where the bevels at the ends of the female barrel portion are adjacent to bevels where the pin extensions extend from the main body portions, so that when the portions are connected together, the joint is so closed as to exclude rain and dust which would otherwise get into the socket and displace the lubricant and wear away the surfaces (col. 2, last full paragraph). It would have been obvious to one of ordinary skill in the art at the time the invention was made to bevel the edges of Flamme's portions in order to prevent dust and rain from entering the hinge.

11. Claims 6, 7, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Flamme and Kent et al as applied to claim 1 above, and further in view of Simpson (U.S. Patent No. 470,514). Flamme discloses the pin extensions of the male portions as machined at one end thereof but fails to disclose using bar stock or tubing stock to make the male barrel portions as claimed.

12. Simpson teaches male portions (A, B) constructed from bar or tubing stock. The selection of a known material based upon its suitability for the intended use is a design

Art Unit: 3677

consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use bar stock or tube stock for Flamme's invention since bar stock and tube stock are known in the art and choosing these materials is a design consideration within the skill of the art.

Response to Arguments

13. Applicant's arguments filed March 20, 2006, have been fully considered but they are not persuasive.

14. Applicant argues that Flamme is of a completely different structure designed for screw on applications, rather than welding as shown by the APA, and concludes the combination of these references is improper. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Specifically, the method of attachment in Flamme does not affect the combination with APA. APA teaches the claimed method of attachment, welding. Flamme is cited for the teaching of a pin extension. This pin extension aids in assembly by easily lining up with the borehole. This is true regardless of how the hinge is attached to the surrounding structure.

15. Applicant argues that there is no motivation to incorporate the lubricant fitting of Kent into the welded hinge shown by the APA. Examiner respectfully disagrees. Kent explicitly provides a motion for including a lubricant fitting. The use of a lubricant fitting allows for grease to be supplied within the hinge and prevents ingress of outside contaminants. Preventing

Art Unit: 3677

contaminants from entering any hinge arrangement will be beneficial to the functioning of hinge, whether it is intended to be disassembled or not.

16. In regard to applicant's arguments against claim 19, examiner notes this rejection has been changed. The claimed features are taught by the APA, as now recited in the body of the rejection.

17. With respect to claim 2 and 10, applicant argues that Dodge fails to show the beveling as claimed. Examiner respectfully disagrees and refers to figure 2 of Dodge as showing as a beveling arrangement meeting the claim limitations.

18. With respect to claims 6, 7, 15, and 16, applicant argues that Simpson does not teach male portions made from bar or tubing stock. Examiner respectfully disagrees. Applicant's argument fails to address the pipe of Simpson is not a bar.

Conclusion

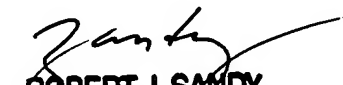
19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3677

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk


ROBERT J. SANDY
PRIMARY EXAMINER